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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,706	11/20/2003	Antonio Coppola	024930-00011	7088

7590 07/20/2005

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EXAMINER

FISHMAN, MARINA

ART UNIT	PAPER NUMBER
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2832

DATE MAILED: 07/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/716,706	Applicant(s) COPPOLA, ANTONIO	
	Examiner Marina Fishman	Art Unit 2832	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>03/30/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

General status

1. This is a First Action on the Merits. Claims 1 - 10 are pending in the case and are being examined.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a **single paragraph on a separate sheet within the range of 50 to 150 words**. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 – 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, in lines 1, recites "in particular" and in line 20, recites "the possibility of reuse," both of the recitations, make claim vague and indefinite.

Claim 3, it is not clear what is meant by "a hollow rod (63) is inserted which is **freely** slidable in both ways". (Considering Figure 2, the rod (63) is only hollow for a certain length, the top part is not hollow and also, it is not freely slidable, because it is being retained at one end by one end of contact carrier (4) and the other end is supported in case (62) by use of a spring (64).)

Claim 4, line 5-6, "the side surface" lacks proper antecedent basis (please note that the rod does not have to have circular cross section, it could be rectangular or other shape, and in that it can have multiple side surfaces.) Claim 4, line 3, "said case" lacks proper antecedent basis (this claim should depend from claim 3 and not from claim 2).

Claim 6, lines 4 - 5, "the laminar portion" lacks proper antecedent basis.

Claim 7, line 4, it is not clear what is meant by "key rotates in a longitudinal direction in the two ways around a transverse rotation axis." The movement of the key, in the instant invention, is pivotal about an axis.

Claim 9, line 2, "said spring" is confusing as there are two springs (defined by numerals 64 and 9) and spring defined by numeral 9 has not been introduced.

Only few of the deficiencies have been pointed out above, the Applicant is required to review all the claims and make necessary corrections.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 8 and 10 are rejected under 35 U.S.C. § 102(b) as being anticipated by Munroe et al. [US 5,012,495].

Regarding Claim 1, Munroe et al. disclose a safety switch for thermal protection of an electrical apparatus, comprising:

- a container [12];
- activation means [62, 34, 36, 38, 44] comprising contact carriers [34, 38, 44], which are movable relative to each other and connected to terminals [34, 38];
- at least one of the contact carrier [44] is susceptible of oscillation around an axis [middle of element 82, Figure 3], the contact carriers have an open position [Figures 3, 6] and close position [Figure 2], the open and close position imposed by operation of command key [62; Column 6, lines 43-64];
- a device [46] responsive to temperature variation, adapted to act on the electric supply circuit [open the circuit, Column 6, lines 65-69, Column 7, lines 1-28].

Regarding Claim 2, the switch bimetallic element moves the switch to OFF position in response to current overload (hence heated condition).

Regarding Claim 8, the switch has open position during which the contact carriers [44, 46, 34] are mutually separated and regarding Claim 10, the activation means of the switch, in passive position, depending on the circuitry, is capable of activating a signaling or alarm device to indicate the condition of the switch.

Allowable Subject Matter

6. Claims 3, 4/3, 5-7 and 9, would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. YU [US 6,664,884], Gallone [US 5,391,847], Coppola [US 6,903,290], all disclose temperature sensitive element. Applicant also should consider these references in response to this office action. Should issue arise concerning the rejection presented above, these references may be relied upon in a subsequent action to support the lack of novelty or obviousness of claimed subject matter to one of ordinary skill in the art.

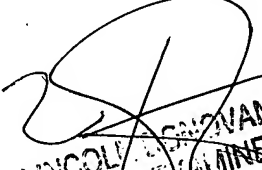
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marina Fishman whose telephone number is 571-272-1991. The examiner can normally be reached on 7-5 M-T.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on 571-272-1990. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marina Fishman
July 11, 2005


LINCOLN S. ENAD
PRIMARY EXAMINER
GROUP 2100